

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

LESLIE ANN SHIELDS,

*Plaintiff,*

vs.

METHODIST HEALTHCARE SYSTEM,

*Defendant.*

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SA-19-CV-00781-FB

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

**To the Honorable United States District Judge Fred Biery:**

This Report and Recommendation concerns the above-styled cause of action. All dispositive pretrial matters in this case have been referred to the undersigned for disposition pursuant to Western District of Texas Local Rule CV-72 and Appendix C. The undersigned has authority to enter this recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). For the reasons set forth below, it is recommended that this case be dismissed for want of prosecution

**I. Analysis**

The record reflects that Plaintiff filed her *pro se* Complaint and Summons was issued on July 3, 2019. The Federal Rules of Civil Procedure require service of a copy of the complaint and summons on each defendant in a civil action. Fed. R. Civ. P. 4(c)(1). The plaintiff is responsible for having the complaint and summons served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service. *Id.* If a defendant is not served within 90 days after the complaint is filed, the court must dismiss the action without prejudice or order that service be made within a specified time. *Id.* at 4(m).

On March 11, 2020, the Court issued an Order informing Plaintiff of her failure to serve Defendant in compliance with the Federal Rules of Civil Procedure and providing her with resources available to *pro se* litigants to assist her in prosecuting this case. The Court gave Plaintiff a deadline of April 13, 2020 to serve Defendant and warned Plaintiff that a failure to do so could result in dismissal of this case for want of prosecution. To date, the Court has not received any filings or notices in response to this Order. The Court will therefore recommend that this case be dismissed for want of prosecution due to Plaintiff's failure to serve Defendant and failure to comply with a Court Order.

## **II. Conclusion and Recommendation**

Having considered the record in this case, the undersigned recommends that this case be **DISMISSED FOR WANT OF PROSECUTION.**

## **III. Instructions for Service and Notice of Right to Object/Appeal**

The United States District Clerk shall serve a copy of this report and recommendation on all parties by either (1) electronic transmittal to all parties represented by attorneys registered as a "filing user" with the clerk of court, or (2) by mailing a copy to those not registered by certified mail, return receipt requested. Written objections to this report and recommendation must be filed **within fourteen (14) days** after being served with a copy of same, unless this time period is modified by the district court. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The party shall file the objections with the Clerk of Court and serve the objections on all other parties. A party filing objections must specifically identify those findings, conclusions or recommendations to which objections are being made and the basis for such objections; the district court need not consider frivolous, conclusive or general objections. A party's failure to file written objections to the proposed findings, conclusions and recommendations contained in this report shall bar the party

from a *de novo* determination by the district court. *Thomas v. Arn*, 474 U.S. 140, 149–52 (1985); *Acuña v. Brown & Root, Inc.*, 200 F.3d 335, 340 (5th Cir. 2000). Additionally, failure to file timely written objections to the proposed findings, conclusions and recommendations contained in this report and recommendation shall bar the aggrieved party, except upon grounds of plain error, from attacking on appeal the un-objected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc).

SIGNED this 22nd day of April, 2020.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE